PATTERNS OF POWER · WORKING NOTES

The Rate That Never Moved

On the royal fifth — where the number came from, why it travelled, and the general instrument it exposes: that a ruler under pressure leaves the fraction alone and redefines what it is a fraction of

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held as tested, not revealed

Why this exists

The Ottoman study turned on a single decision by Murad I in the 1360s. Needing soldiers who owed nothing to any Anatolian lineage, and having no money to buy them, he took an entitlement he already lawfully held — the sovereign's fifth of the movable spoils of war — and read *captives* as movable spoils. The most conspicuous slave institution in the Islamic world begins there, and it begins not as a doctrine of servile government but as a reinterpretation of a clause.

That raised a question the study could not answer inside its own bounds. The Spanish and Portuguese crowns took a *quinto real*, also a fifth, also originally on spoils, and also extended it to something that had not been spoils at all. Are these the same instrument, and if so by what route? And since the fraction recurs across cases that had no contact — or appeared not to — is a fifth some natural resting point for a ruler's cut, arrived at independently by men in similar positions?

The answer is no, and the reason the answer is no is more useful than the genealogy.

The number is not natural, and we know because it replaced a quarter

The Ottoman *pençik* is Persian *penc-yek*, one-five, and it rests directly on the Qur'anic *khums* set down at 8:41 after Badr: a fifth of what is taken to God and the Messenger, his kin, the orphans, the needy and the wayfarer, with the remaining four-fifths to the men who fought.

What the verse displaced is the point. The institution has its origins in pre-Islamic Arab custom, under which the chief took a quarter — the *mirbāʿ* — or in some accounts a fifth, along with the *ṣafw al-māl*, whatever item in the booty particularly attracted him, and retained the right to dispose of the rest as he saw fit. The tafsir tradition is explicit that before the revelation the leader's share was a fourth.

So the fifth is a deliberate substitution and it does two things at once. It *reduces* the chief's take, from a quarter to a fifth. And it *redirects* what remains, from the chief's person to a named schedule of beneficiaries with the ruler as administrator rather than owner. A framework reading should register both halves: the apex accepted less in exchange for holding the share as a public trust rather than a personal spoil, which is a better bargain than it looks, because a personal quarter must be defended against every strong man in the band while a public fifth is defended by the doctrine.

There is no arithmetic necessity here at all. Five was chosen over four, in a datable act, against an existing custom.

Rome did not have one, which is the load-bearing negative

The obvious rival genealogy is Roman, and it fails.

Roman booty division was discretionary. The commander's share — *manubiae* — was disputed by Roman jurists in antiquity and is disputed by modern scholarship, which finds that the few surviving texts giving quantitative data do not permit a fixed rate to be stated. There was a procedure; there was no fraction. The Germanic codes do not supply one either: the Visigothic law is heavily Romanised, concerns persons, property and penalties, and establishes no standing royal share of loot.

This matters for the corpus because it removes the tempting explanation. If Rome had taken a fifth, the recurrence of the fifth across the Mediterranean would be a survival, and survivals require no explanation beyond inertia. Rome did not, so the recurrence is either transmission or convergence, and the two have very different implications.

The quinto real: the justification developed separately, the number probably did not

The Iberian fifth turns out to be two things fused, and separating them resolves the puzzle.

The fifth **on booty** has a strong Islamic derivation. The schools of Islamic law divided over whether the fifth extended beyond battlefield spoils to treasure trove and mining; the Hanafi position held that it did, and the Taifa kingdoms of al-Andalus adopted that position and institutionalised the fifth on all three. The Christian kingdoms of the peninsula were conducting reciprocal raiding across a permeable frontier against states operating that rule, for centuries, under shared conventions of ransom and exchange.

The fifth **on mines and treasure** has an independent Christian justification. In the Christian kingdoms it derives partly from the medieval conception of regalian right — the crown holding original property in all unclaimed, undiscovered and undeveloped natural resources within its jurisdiction, so that a private person extracting them owes compensation to their original owner. That principle is Roman-descended and owes nothing to Islamic law.

Note the qualifier in the standard account, which is doing real work: *partly*. The direct-transmission claim rests substantially on Weckmann and is not universally held; some accounts insist the Christian fifth came from internal medieval custom. And no Castilian charter says *a fifth, as the Moors take a fifth*. The evidence is circumstantial — a matching rate, on a frontier of mirror-image raiding, appearing in the kingdoms in contact with al-Andalus and not in France or England.

The honest formulation is that the principle developed separately and the number probably did not. A Christian king had his own reason to claim a share of the subsoil; he had no particular reason to claim exactly a fifth of it.

Where the fifth is not

The check that settles the convergence question is negative and should be run before anyone reaches for position logic to explain a recurring number.

The fifth appears in the Islamic world, in Iberia, and in the Ottoman empire. It does not appear in Rome, in Germanic law, in English prize and admiralty practice, or in Mongol division of spoils. That is not a rate independently rediscovered by rulers in like positions. **It is one transmission network with a single origin, and the origin is a revealed text.**

This is worth stating plainly because it cuts against the framework's own instinct. Position logic explains why rulers converge on similar *instruments* — a share of the flow, taken at the division, before the men disperse. It does not explain the specific magnitude, and the corpus should stop expecting it to. Where a precise figure recurs across cases, look for contact before looking for convergence; a number is a piece of culture and travels like one, while a mechanism is a solution and is reinvented.

What actually travels: the mechanism, and why it enforces itself

The instrument beneath the number is the thing position logic does explain, and it explains why this particular instrument spread so far and lasted so long.

A share of booty is a claim on a **flow**, assessed at the moment of division, in the open, in front of every man entitled to the remainder. It requires no register, no survey, no assessor, no collection apparatus and no coercion at the point of extraction, because the men who would otherwise conceal it are standing in a circle watching each other. It is very nearly free to administer, and its enforcement is performed by the taxpayers.

That is why a ruler with no fisc can operate it from the first day of a conquest, and why it is characteristically the *earliest* fiscal instrument a war-band acquires — before any land tax, before any survey, before anything that requires literate officials. The Ottoman case shows it doing exactly this work: a state that could not yet pay wages for infantry could nonetheless collect a fifth of what its raiders brought back, because collecting it cost nothing.

The finding: leave the fraction, redefine the base

Here is what the comparison actually yields, and it is a transferable instrument. **In both cases the rate never moved. The base did.**

Murad I did not raise the fifth. He ruled that human beings taken in battle fell inside "movable spoils," and a fiscal entitlement became an army. The share stayed at one-fifth for the whole life of the institution; what changed was what the fifth was a fifth *of*.

The Spanish crown ran the identical operation in the other direction. It took a rule about the division of *booty* — a flow, seized from an enemy — and applied it to *mines*, which are not booty, which no one had seized from anyone, and which sit in the ground. The bridge was a redefinition: the subsoil was declared already crown property, so that extracting from it was not conquest but the use of another man's asset, and the fifth followed as compensation to the owner. Then the fifth on New World bullion was set by an edict of 1504, and the crown had converted a war levy into a permanent royalty on production.

A ruler under fiscal pressure adjusts the definition before he adjusts the rate, and for a reason that is entirely about position. A rate is visible, is argued over, is the thing everybody watches, and raising it invites the question of by what right. A definition is technical, is settled by the people who interpret the law — who are usually the ruler's own employees — and can be extended without any announcement that anything has changed. The Ottoman extension came with a juristic recommendation from two advisers. The Iberian extension came dressed as regalian right, which is to say as a statement about what the crown had owned all along.

So the diagnostic for any case in this collection: **when a state's revenue rises without its published rates rising, look for what was reclassified.** And when a fiscal entitlement suddenly does something it was not doing before — funds a standing army, seizes a mining industry, reaches a population it never touched — check the definition of the base before checking the schedule.

This belongs alongside the settlement fictions rather than in the extraction material, because the second half of it *is* the eminent-domain move under another name. Declare that the sovereign already owned the thing, and every subsequent taking becomes a rent rather than a seizure. The Ottoman kanun performed that operation on the arable land

of an empire. The Spanish crown performed it on the subsoil of a hemisphere. The instrument is the same and the fraction is a detail.

A note on sources. The Qur'anic basis of the fifth at 8:41, and the four-fifths to the combatants, are as the standard tafsir and reference literature give them. The pre-Islamic *mirbāʿ* — the chief's quarter, or in some accounts fifth, together with the *ṣafw al-māl* and his right of free disposal — follows the account in the reference literature drawing on the *Encyclopaedia of Islam*; the alternative report of a pre-Islamic fifth is noted rather than suppressed, because it weakens the neatness of the substitution argument and should not be hidden. The Ottoman *pençik*, its Persian etymology, its attribution to Kara Rüstem and Çandarlı Kara Halil under Murad I, and the reinterpretation of captives as movable spoils are established in this collection's Ottoman study with its sources. On Rome, the finding that no fixed fraction can be established follows the scholarship on *praeda* and *manubiae* — in particular Tarpin's contribution to the Coudry and Humm volume, and the observation there that the few texts supplying quantitative data do not permit a rate to be stated — and readers should know this is a field in active dispute, including over what *manubiae* meant. On the Iberian fifth the module follows the standard reference account, which rests on M. A. Mannan for the Islamic law and on Luis Weckmann's *The Medieval Heritage of Mexico* for the Taifa institutionalisation and the transmission claim; that claim is not universally accepted and the addendum says so. The regalian-right derivation and the word *partly* are from the same reference account and are the reason this note argues for fusion rather than for simple borrowing. The Spanish mining fifth codified by the edict of February 1504, and its later reduction to a tenth in 1723 and to three per cent in 1777, follow Haring. No Castilian or Portuguese charter attributing the fifth to Islamic practice has been found, and none should be assumed to exist; the transmission argument here is circumstantial and is offered at that strength and no higher.